

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION

WILLIE LITTLETON

PLAINTIFF

v.

No. 3:04CV00224 GH

PILOT TRANSPORTATION CENTER

DEFENDANT

**ORDER**

Pending before the Court is defendant's July 26<sup>th</sup> motion in limine to exclude evidence. Defendant seeks to exclude witness statements from the EEOC investigation of the retaliation charge identified on plaintiff's exhibit list as being hearsay and seven witnesses identified in plaintiff's pre-trial disclosure sheet who were never disclosed by either party in the course of discovery.


Plaintiff responded on July 29<sup>th</sup> that the EEOC records are subject to the hearsay exceptions under Rule 803 as being public records and reports under Rule 803(8), recorded recollection under Rule 803(5) and present sense impression under Rule 803(1). He continues that he intends to call the EEOC investigator and author of the statements as well as the individuals making the statements regarding any investigation that defendant conducted with respect to the October 2, 2003 correction notice. Plaintiff states that the identities of the witnesses at issue were provided to defendant in discovery and so those persons have long been known to defendant and, in any case, would be rebuttal witnesses.

In light of the separate order filed this date granting summary judgment on plaintiff's claims of retaliation and outrage, the Court finds that defendant's July 26<sup>th</sup> motion (#30) in limine has been

rendered moot. Although a response has not yet been filed to the EEOC's August 12<sup>th</sup> motion (#32) to quash subpoena, that motion has also been rendered moot by the elimination of the retaliation and outrage claims.

Finally, with the issues being narrowed to the denial of raises claim, the Court is persuaded that this case should be removed from the trial calendar and referred to the Magistrate Judge for a settlement conference. The Clerk should provide a copy of this order to the Magistrate Judge. With the removal of the case from the trial calendar, defendant's August 12<sup>th</sup> motion (#34) to quash has also been rendered moot.

IT IS SO ORDERED this 15<sup>th</sup> day of August, 2005.

  
UNITED STATES DISTRICT JUDGE